

# THE KLONDIKE NUGGET.

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DAWSON, Y. T., WEDNESDAY, FEBRUARY 8, 1899

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## AN INVESTIGATION

### The Commissioner Sits and Charges are Made.

### THE ROYAL COMMISSION REPRODUCED IN FULL.

### A Month is Allowed for the Filing of Further Charges.

### The Machinery Begins to Grind at Last—Bids Fair to Grind Slowly But Exceedingly Small—The Clerks Forestall the Putting in of Charges by Having Lawyers Present to Try and Contract the Limits of the Investigation—However, Ogilvie Declares for the Widest Investigation.

At last and in a manner promising dispatch at least, the royal commission appointed to investigate the myriad of charges of corruption, malfeasance, incompetency, etc., made by the people and press against certain government officials and employees has set in motion the machinery through which is hoped to secure for the future a complete recognition of the rights of the people as well as the proper punishment of the offending ones. The territorial court was well filled with interested spectators when, at about 11 o'clock Monday morning, Commissioner William Ogilvie took his seat, with Mr. Clement, his legal adviser at his side, and introduced the purpose of the session, by reading in full his commission from the crown to conduct the investigation, which is as follows:

"Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, etc. To William Ogilvie, Esq., of Dawson City, in the Yukon Territory, in our Dominion of Canada, and to all to whom these presents shall come, or whom the same may in any way concern, greeting.

Whereas, it appears from a report from our minister of the interior of Canada that he had under consideration a communication dated Dawson, Yukon Territory, Aug. 25, 1898, addressed to the Right Honorable Sir Wilfrid Laurier, premier of Canada, signed by G. J. C. Armstrong as chairman and Percy McDougall secretary, and a number of other persons professing to have been duly appointed a miners' committee at a mass meeting of the miners of the Yukon territory, in which communication it is alleged that many of the government officials have forfeited their claim to the people's confidence and respect by their conduct and action in certain matters. Our said minister further observes that the committee alleges that the gold commissioner's office has been recently closed, and has been for a considerable time, to the detriment of the means and desire to bribe the clerks in order to obtain knowledge of the records which ought to be public. It is further charged that wholesale information with regard to unrecorded ground is conveyed to certain individuals outside the office who obtain men to stake and record the ground in violation of an interest in the same. Our minister further states that it is charged that dissatisfaction has arisen with respect to decisions in claim contests, particularly owing to the crown prosecutor, who, while retained as advocate by one of the contestants, was giving legal advice to the other contestant. The Dominion minister is openly charged with serious breaches of trust and malfeasance in office, and some of the officials connected with the recorder's office are alleged to be incompetent. Our said minister further submits that it is stated in the communication that hardships have been caused to many of the claim owners owing to the want of experience of the mining inspectors. The committee further represent that the crown timber agent has granted such concessions and laid down such stringent regulations that only a few parties have the privilege of supplying cordwood this coming winter. On account of this and other reasons set forth in the communication referred to, a copy of which is hereto attached, the committee ask for the appointment of a committee of inquiry.

And, whereas we deem it expedient that inquiry under oath should be made with respect to the truth or untruth of the foregoing charges, statements and complaints, now known by that we, by and with the advice of our privy council, for the purpose of doing by these presents nominate, constitute and appoint you, the said William Ogilvie, of Dawson, commissioner of the Yukon Territory, to be our commissioner for the purposes of such investigation and inquiry into the matters and things hereinbefore mentioned and set out, and we do hereby, under the Great Seal of Canada, Chapter 134, entitled "An Act Respecting Inquiries Concerning Public Matters," confer upon you, our said commissioner, the powers of summoning any witnesses and of requiring them to give evidence on oath, orally or in writing, or on solemn affirmation, if they are persons entitled to affirm in civil matters, and to produce such documents and things as you, our said commissioner, shall deem requisite to the full investigation of the matters into which you are hereby appointed to examine, inquire and investigate. To have, hold, exercise and enjoy the said office, place and trust unto you, the said William Ogilvie, together with the rights, powers, privileges and emoluments unto the said office, place and trust of right and by law appertaining during pleasure. And we do hereby require and direct you to report to our said minister of the interior the result of your investigation, together with

the evidence taken before you and any opinion you may see fit to express thereon."

Following came the usual long line of signatures and titles, and the whole was prepared on the heaviest of parchment, written in a beautiful hand, and decorated with a huge red seal. The document was imposing in appearance as well as in import, and seemed to convey the impression to the hearers that the government of Ottawa considers the charges of the gravest nature.

After the reading the commissioner stated that it was his desire to conduct the investigation to the fullest degree and to the end that the matter may be permanently settled as soon as possible. He had, therefore, decided to invite any who wished to prefer what charges they had, with the assurance that he would give it his attention. He already had in hand several charges that had come to his ears and these would also be investigated. He hoped that all would feel free to tell what they knew, and quoted a section of the Revised Statutes to show that the same could not be used against them at a subsequent time. Attorney Woodworth was present for the miners' committee, and set forth the purposes of that body. The commissioner then addressed the gentleman directly and said that any charges possessing even a shadow of truth would be fully investigated. Mr. Woodworth's reply was that they expected to present much that was far more substantial than shadow. He asked the commissioner if he would summon the accused parties and allow access to the records of the gold commissioner's office. The reply was that any accused official or employe present in the district would be summoned, and such portion of the records as were pertinent to the investigation would be open for use.

Colonel D. MacGregor made a rather lengthy address on behalf of the miners, referring to the widespread discontent which had existed and to the belief, following the appointment of the miners' committee, that something would be done to improve the then existing conditions. He believed that much good had come from it, as the turbulent element in the district had been allayed. He thought it likely that there are persons who are performing their official duties with strict integrity and as the sweeping charges are against the whole official body, this investigation would tend to clear them.

Messrs. Percy McDougall and Geo. Armstrong also addressed the court in behalf of the miners. In response to the commissioner's renewed invitation for the filing of charges, a stranger stepped forward and described his efforts to record a claim on Gold Run. He was refused the permission point blank by the recorder, who declared that the ground was reserved for the crown, and was also denied admittance to the gold commissioner. He called on the recorder several times in reference to the matter but always with the same result. The final result was that the ground was recorded by somebody else and he lost it. Asked by the commissioner if he thought he saw fraud in the transaction, he replied that he did, as he was the original staker and the recorder had told him the ground was reserved for the crown.

Another man, talking over the heads of the people from a position on the woodbox, asked the commissioner if it was not fraud for the recorder to keep the recording fees of the defeated applicant when two men contested for the same piece of ground. For his part, he thought it stealing. The commissioner said the proceeding was authorized by law and was in the nature of a protection, as it is too often the case in contests that perjury is committed, which is punished by confiscation of the moneys deposited. In answer to a query, the commissioner

stated that he would receive charges for a month, whereupon Mr. E. C. Allen, for the NUGGET, filed only the following from a large number, reserving the others for further elaboration:

BEFORE THE HON. WILLIAM OGILVIE, INVESTIGATING COMMISSIONER.

In the matter of the investigation into the acts of Thomas Fawcett, as gold commissioner in and for the Yukon Territory.

The complaint alleges as follows:

1. That Thomas Fawcett did willfully manipulate his powers, real and assumed, in the matter of closing and opening of Dominion creek bench claims, to the defrauding of the miners and the benefit of officials and their friends.

2. That at the time pending the issuance of permits to prospect as per his own notice of July 11th, 1898, at 10 a. m., he did willfully deplete from his said notice and issue a permit to Mrs. Emma Koch.

3. That Mr. Fawcett was unfair and unjust to the miners through his office in that when through ignorance on the part of the said miners, or through incompetence on the part of the gold commissioner's office, two applications were entertained for the same ground and both parties paid the entrance fee of \$10, the fee of the misled and unsuccessful applicant was refused to be returned to him.

4. That Mr. Fawcett did use his official powers for the benefit of personal friends and to the prejudice of free miners as in the case of the Dominion creek claim of Mrs. Miner when he permitted her to pay All Gold. The gold commissioner refused to return the money to Nelson although the claim went to Zorn.

5. That Mr. Fawcett did use his official powers for the benefit of personal friends and to the prejudice of free miners as in the case of the Dominion creek claim of Mrs. Miner when he permitted her to pay All Gold. The gold commissioner refused to return the money to Nelson although the claim went to Zorn.

6. That an entrance fee was charged and collected to his office.

Dated at Dawson, Y. T., this 6th day of February, 1899.

E. C. ALLEN for the "Nugget," Complainant.

There appearing to be no other charges forthcoming at the time, the session was dissolved with the assurance of the commissioner that he would lay those in hand before the accused and resume the investigation when they had been given sufficient time to prepare a defense. A number of attorneys present in the room gave evidence by their interest in the proceedings that they were there in behalf of officials who expected to be mentioned in the complaints and charges.

#### LOCAL BREVITIES.

The burial of the late Dave Evans and Libbie White, victims of Friday's tragedy, will take place Wednesday at one o'clock p. m.

Fickett & Devlin's new covered stage with stove is a vast improvement on the past. The door fits well and with insulating windows, is as snug as a house.

The Public Charities committee have just prepared a report showing a shortage of \$172.40. The benefit entertainment at the Monte Carlo netted them \$1761, the indebtedness before being \$348.40.

The regular meeting of the Miners' Association was held at the Institute on Monday night. The meeting was a small one, there being only 12 people present. On the matter of changes in the personnel of the committee three of the 12 retained from voting.

An over heated fire set fire, on Friday evening, to the ceiling in the apartments over the Crofto saloon. The fire boys responded to an alarm and extinguished the blaze with a chemical. The damage will not exceed \$50.

The Arctic Ski club had a fine run Sunday and the large crowd of spectators cheered themselves into enthusiasm over the success of the jumps made. The club is now considering the advisability of arranging a prize run for the near future.

From the last mail delivery the Nugget Express made 483 people on the creeks extremely happy, delivering that number of letters by means of the excellent service now being carried on by their dog teams, traversing Eldorado, Bonanza, Hunker, Sulphur, Dominion, Gold Bottom and Lombard.

#### Latest Arrivals.

A party of N. A. T. & E. Co. attaches arrived in Dawson from the outside Tuesday afternoon. They were O. W. Jackson, a son-in-law of Captain Herby, J. J. Delaney, W. W. Gorman, and C. D. Emmons. With the party were also George Ames and F. W. Smith.

The party was heavily loaded and made slow time, several of the recent arrivals having passed them on the road so that the outside news was here ahead of them. The party left Seattle, December 16th and Skaguay on the 28.

#### Curley Carr in Trouble.

Curley Carr, the pugilist, is the latest victim of the late police round-up, having been arrested today on two charges. The first is that of vagrancy, but the second charges him with being accessory with one McArthur, a partner in the theft of some provisions belonging to Frank McCarthy. He has engaged Atty. Patullo to defend him, and the preliminary examination will take place before Justice Harper on Thursday at ten o'clock.

#### An Old Timer Gone.

John Hughes, one of the oldest residents of this country, died Tuesday at St. Mary's hospital from a general breaking down of the system, aged about fifty years. He came into the country in 1883, engaging first in mining on the Lewis. He was for many years a partner of the late Frank Denmore. The Y. O. O. P. will have charge of the funeral.

Don't forget the date, Friday evening, February 10, grand masque ball, Monte Carlo Theatre.

The Regina Club Hotel Bar is the standard of Dawson in quality.

Grand prize wait at the masque ball Friday night at Monte Carlo Theatre.

## THAT TRAMROAD "WITHOUT A TRAM"

### The Council Grants the Tramroad Rights not Asked for.

### Council Argue for and Against—Judge Coalines Attorney for Defendant to what He Considers Points at Issue—Taken Under Adversement.

The case of the NUGGET vs. The Tramroad "without a tram" reached another stage on Saturday, when the attorneys for the parties made their argument and his lordship, Judge Dugas, took the matter under advisement. Mr. Petullo, for the NUGGET, presented a strong case in a very able manner and Mr. Tabor's effort showed deep research and careful preparation. The first named gentleman opened by raising the point that O'Brien and Henning, in their application for the franchise asked for the exclusive right to construct a roadbed for the laying thereon of a pole-tramway. The records of the council show simply that the application was granted. Subsequently, however, Commissioner Ogilvie, in a letter to them on the subject, exceeded the terms of the application and informed them that they had been granted the right to construct a tramway or wagon-road. This, the attorney held, was unwarranted. Again, the commissioner's letter clearly stated, "The privilege granted is only such as the local government can give" but "the local government has no control over the lands of the Dominion in the Yukon Territory," and that "until you secure the approval of the minister of the interior or governor-general in council to your scheme you must distinctly understand that no monopoly is secured to you." The attorney then quoted from the territorial laws to show that the control of all the public lands is vested in the minister of the interior, and further supported his contention, quoting the law relating to the establishment of the Yukon Council, wherein that body was specifically denied the right to appropriate public lands without the authority of parliament. The court interrupted to state that the resolution of the council conferring the grant was really made subject to the approval of the minister of the interior. Further citations by the council brought out the further fact that such acts, even when legally enacted, became operative only after they had been published for four weeks in the Canada Gazette, which had not been done in this instance.

The next point raised was that there had, by reason of the construction of the road, been an interference to an established trail, which alone was sufficient to justify a decision for the plaintiff. Counsel quoted the laws defining a highway, which no one has a right to interfere with and contended that the creek bed, being the established route followed by the miners was, as such a highway, as one of the streets of Dawson. The trail was one of necessity even, and the miners in the gulch, holding concessions from the crown, were entitled to be protected in their rights to the trail.

Counsel then referred to the excessive rate of toll to which the NUGGET had been subjected and to the fact that the terms of the grant had not been complied with in that all of Henning's obligations for labor had not been paid. The court, however, said the only question for him to consider, really was whether the council had the right to give the land for such a purpose.

Mr. Tabor, for defendant, held that the grant was for a roadway as well as a tramway, and that the present road is in accord with the action of the council. The rights of the council were those of other legislative bodies. These were permitted to grant incorporations except for railroads, such as canals, tow paths, tramways, etc., and it was natural to conclude that the right to grant the necessary land went with it, else what use would be the incorporation. The doctrine of implied right bore forcibly on the issue; besides, this matter is strictly local in its nature, which has a bearing on the issue.

The court interrupted here to say that he thought the road a good thing. Some would be made to suffer by reason of having no money with which to pay the toll; but on the whole he did not believe the road would be unpopular if it were not for the brigades which obstruct the creek. He also called Mr. Tabor's attention to a law of '97 which conferred on the minister of the interior the right to dispose of lands in the Yukon territory without the limitations in relation to other public lands.

Counsel contended that the regulations conferred on the commissioner in council rights over the dominion lands in the Yukon district without the concurrence of the minister of the interior and referred to an act approved in December last in relation to the disposition of lands for hydraulic mining. In reference to the creek bed, being considered a public highway, he said he believed it would be admitted that claim owners have a perfect right to build dams in the stream and effectually close it up to passage by pedestrians, which would seem to dispose of that question.

In regard to the provision requiring the liquidation of all claims for labor against defendant he said it was not mandatory. The indebtedness had been taken up as quickly as possible so far as it could be, and the bill remaining unpaid would be met when presented. At the conclusion of the argument his lordship took the matter under advisement. His decision is expected to be given in a few days.